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Southern Region Miscellaneous Series

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

SOUTHERN DIVISION

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PROCEDURE FOR HANDLING CASES UNDER THE 1939 AGRICULTURAL CONSERVATION
PROGRAM WHERE THE COTTON ACREAGE ALLOTMENT HAS BEEN OVERPLANTED

This procedure is meant as a guide for county and State committees in determining whether overplanting of a cotton acreage allotment in a given case was done knowingly or unknowingly.

Any person who knowingly planted cotton on a farm in 1939 in excess of the cotton acreage allotment established for the farm under the 1939 Agricultural Conservation Program is not eligible to receive any payment under said program. In cases where the farm operator was officially notified of an incorrect allotment, the final corrected allotment, if larger, shall be used in making the determination provided for in this procedure. If the final corrected allotment is less than the erroneous allotment, the erroneous allotment shall be used, unless it appears that the producer knew or should have known that the erroneous allotment was in fact in error.

PART I. - WHERE PLANTING WAS COMPLETED AFTER ALLOTMENT WAS RECEIVED.

In cases where the cotton acreage allotment has been overplanted in 1939 and the planting (seeding) of cotton on the farm was completed after notice of the cotton acreage allotment was mailed to the farm operator --

A. All producers entitled to share in the cotton crop, or its proceeds, will be presumed to have knowingly planted, or caused to be planted, cotton in excess of the cotton acreage allotment established for the farm.

B. The presumption raised, as described in A above, may be rebutted --

(1) as to any producer on the farm, by proof that the excess acreage was planted because of a bona fide mistake as to the number of acres in the fields planted to cotton; or

(2) as to any producer who did not participate in the planting of the cotton (either by his own labor or by labor procured by him for that purpose), by proof that the excess acreage was planted without his knowledge and consent, or, if planted with his knowledge but without his consent, by proof that he made every reasonable effort to prevent the planting of cotton in excess of the cotton acreage allotment for the farm. Satisfactory rebuttal by such a producer shall not excuse the other producers on the farm.

C. Where the check of performance showed that the acreage planted to cotton exceeded the cotton acreage allotment, a presumption was raised against all cotton producers on the farm. However, this presumption is not conclusive, and a satisfactory rebuttal may be made as provided in B above. Producers should be afforded an opportunity of presenting proof with respect to any pertinent matters.

D. The provisions of B(1) above apply to all cotton producers on the farm and permit them to rebut the presumptions raised against them by proving that they were honestly mistaken about the number of acres in the fields planted to cotton. Each cotton producer is required to exercise reasonable diligence in determining whether the farm is being overplanted. Since a producer who is actually on the farm can, with a reasonable degree of diligence, inform himself of the number of fields planted to cotton, it is not meant that such a producer may excuse himself by proving that he did not know how many fields were planted to cotton, but only in proving that he had an honest but mistaken belief concerning the number of acres in each one of the fields planted, and the overplanting took place because of that mistake. For example, in the case of a farm with an allotment of 15 acres, if the producer knows that fields 1, 2, and 3 are being planted and he honestly believes, because of a former survey or deeds or other information upon which a reasonable person would rely, that each field contains 5 acres, and it is subsequently ascertained that field 3 contains 6 acres, he should be excused. But if the producer thought that fields 4, 5, and 6 (each actually containing 5 acres) were being planted, he would not under this rule be able to rebut the presumption raised against him if field 7 was also planted.

E. The provisions of B(2) above apply only to persons who do not take part in the planting of cotton either by planting

it themselves or by having some other persons plant it for them under their direction and control, but who are classed as cotton producers simply because they have an interest in the cotton crop. Such a producer may avail himself of these provisions by showing that he did not know how many fields were planted to cotton, if he also shows that he exercised reasonable diligence in trying to ascertain the number of such fields. He may also excuse himself, even when he knew that the farm was being overplanted, by showing that he did not consent to the overplanting. Since in the latter case consent will be presumed from a failure to make reasonable efforts to prevent the overplanting, such a producer must show that he made every reasonable effort to prevent the overplanting.

PART II. - WHERE PLANTING WAS COMPLETED BEFORE ALLOTMENT WAS RECEIVED.

In cases where the cotton acreage allotment has been overplanted in 1939 and the planting (seeding) of cotton on the farm was completed prior to the mailing of notice of the cotton acreage allotment to the farm operator --

A. All producers entitled to share in the cotton crop, or its proceeds, will be presumed to have knowingly planted, or caused to be planted, cotton in excess of the cotton acreage allotment established for the farm, if --

(1) the number of acres planted to cotton on the farm exceeded the number of acres which the producer might reasonably have expected to be allotted to the farm, or

(2) through error or oversight, no notice was mailed, but the fact that cotton acreage allotments had been established was known to the producer and, without making a reasonable effort to ascertain the amount of the allotment for his farm, he planted a number of acres which exceeded the acreage allotment for his farm.

B. The presumption raised, as described in A above, may be rebutted by any producer who did not participate in the planting of cotton (either by his own labor or by labor procured by him for that purpose) by proof that the excess acreage was planted without his knowledge and consent, or, if planted with his knowledge but without his consent, by proof that he made

every reasonable effort to prevent the planting of cotton in excess of the cotton acreage allotment for the farm. Satisfactory rebuttal by such a producer shall not excuse the other producers on the farm.

C. It is to be observed that the presumption raised, as described in A above, arises only when the acreage planted to cotton in 1939 exceeded the cotton acreage allotment and the facts specified in A(1) or A(2) are found to exist. This differs from the presumption raised in the cases covered by Part I hereof in that the presumption there is raised by the mere fact that the planted acreage exceeded the cotton acreage allotment for the farm.

D. The rule in A(2) above is applicable only where the cotton acreage allotment for the farm had been established but through error or oversight notice of the allotment was not mailed before completion of planting, and the producer knew that cotton acreage allotments had been established in the community in which his farm is located but he made no reasonable effort to ascertain the amount of his allotment before the completion of the planting of cotton on his farm. If he made a reasonable effort to ascertain the amount of his allotment but failed to obtain this information, the case should be decided in accordance with the rule stated in A(1) above. If he ascertained the amount of the cotton acreage allotment prior to completion of planting of cotton on the farm, the case should be decided in accordance with the procedure set forth in Part I hereof, even though no notice of allotment was mailed.

E. In deciding whether the number of acres planted to cotton on the farm exceeded the number of acres which the producer might reasonably have expected to be allotted to the farm, the county committee should carefully examine all pertinent records for the farm and consider all of the circumstances, both favorable and unfavorable to the producer.

F. In handling the cases coming under this Part II and in making its determination thereon, the county committee should observe the following instructions:

(1) If the acreage planted to cotton on the farm in 1939 does not exceed the cotton acreage allotment by more than the applicable amount indicated in (a) and (b) below, it would seem that the allotment should not be considered as having been knowingly overplanted if it clearly appears from all the circumstances that an honest effort was made to plant within the cotton acreage allotment.

(a) On farms with cotton allotments of 30 acres or less, where the allotment has not been exceeded by more than 3 acres.

(b) On farms with cotton allotments in excess of 30 acres, where the allotment has not been exceeded by more than the smaller of (i) 10 percent of the allotment or (ii) 25 acres.

(3) If the acreage planted to cotton exceeded the limit set out in (1)(a) and (1)(b) above, it would seem that the cotton acreage allotment should be considered as having been knowingly overplanted, unless other facts are definitely established which tend to show that the producer(s) on the farm might reasonably have expected to receive an allotment equal to or in excess of the acreage planted to cotton and that under the circumstances an honest effort (such as making a substantial reduction in the acreage planted in 1939 as compared with the acreage planted in 1938) was made to plant within the cotton acreage allotment.

PART III. - EXECUTION OF FORM SRM-347, "DATA FOR DETERMINING WHETHER COTTON ACREAGE ALLOTMENT WAS KNOWINGLY OVERPLANTED IN 1939."

A Form SRM-347, copy of which is set out on page 7 hereof, must be executed for each farm on which the cotton acreage allotment has been overplanted by more than the limit set out in paragraph F(1) of Part II hereof if the county committee recommends that such allotment be considered as unknowingly overplanted. This includes cases where notice of the cotton acreage allotment was mailed to the producer before planting was completed, although it is contemplated that county committees will rarely, if ever, find the allotment to have been unknowingly overplanted in such cases if the limit set out in F(1) of Part II hereof is exceeded.

Form SRM-347 shall be executed in duplicate. The original shall be submitted to the State office with the application for payment and the copy retained in the county office files. Every applicable item of information called for on the form must be included, and any other facts bearing on the case should be set forth on the reverse side thereof. One Form SRM-347, properly signed by the farm operator, will excuse all of the producers on the farm if approved by the county and State committees.

PART IV. - EXECUTION OF STATEMENT WHERE COTTON ALLOTMENT WAS KNOWINGLY OVERPLANTED BY OPERATOR BUT LANDLORD WAS NOT RESPONSIBLE THEREFOR.

In any cases where a producer who did not participate in the planting of the cotton on a farm (either by his own labor or by labor procured by him for that purpose) is found by the county committee not to be responsible for the overplanting of the cotton acreage allotment on such farm by reason of the fact that the excess acreage was planted without his knowledge or consent, or if planted with his knowledge it was done without his consent, and he proves to the committee that he made very reasonable effort to prevent the planting of cotton in excess of the cotton acreage allotment for the farm, full details of the case must be set forth in a statement, in duplicate, over the signatures of the producer and at least two members of the county committee, and the original thereof attached to the application when the latter is submitted to the State office. In such cases it is not necessary that a Form SRM-347 be prepared.

PART V. - APPROVAL OF STATE COMMITTEE.

The State committee should carefully consider each case covered by a Form SRM-347, or by a statement as required in Part IV hereof. If it determines that the allotment for the farm covered by the Form SRM-347 was knowingly overplanted, or that the landlord for whom the statement was submitted should be held responsible for the overplanting of the cotton acreage allotment on the farm in question, it should notify the county committee accordingly. If it concurs in the county committee's recommendation, it should indicate its approval on the reverse side of Form SRM-347, or on the bottom of the statement respecting the landlord. The finding of the State committee in such cases will be final, unless the producer wishes to appeal from an adverse decision of that body.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.

Form SRM-347

United States Department of Agriculture
Agricultural Adjustment Administration
Southern Division

(State & County Code & Farm Serial No.)

(Name of County)

DATA FOR DETERMINING WHETHER COTTON ACREAGE
ALLOTMENT WAS KNOWINGLY OVERPLANTED IN 1939

1. The undersigned producer requests and the county committee recommends that the cotton acreage allotment on the farm identified above be considered as unknowingly overplanted in 1939 because of the following reasons (if more space is needed, use reverse side):

2. Cropland : Type of measurement; Final cotton allotment: Acreage planted to cotton

1938	1939	1938	1939	1938	1939	1938	1939

(Note: Explain any appreciable difference in cropland figures on reverse side.)

3. Is the 1939 farm operator the same as the 1938 operator? (Yes or No) _____

4. Original notice of allotment, showing _____ acres, was mailed on _____, 1938

5. Corrected notice of allotment, showing _____ acres, was mailed on _____, 1939
(Note: Explain any error in original allotment on reverse side.)

6. Date planting of cotton was completed on this farm , 1939

7. Date notice of measured acreage of cotton was mailed to operator _____, 1939

8. Date on which cotton picking began on this farm , 1939

9. Date first picking of entire cotton acreage on farm completed _____, 1939

10. Producer plowed up _____ acres of cotton on , 1939

11. Other farms owned or operated by producer in this county:

Serial No.					Total
Owner or operator?					XXXXXXX
Cotton allotment					
Cotton planted					

(Signature of operator)

(Signature of county committeeman)

(Date)

(Signature of county committeeman)

